IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Crl.MC.No. 2148 of 2007()

S.T.NO.1871/07 OF J.F.C.M-IV, THIRUVANANTHAPURAM

PETITIONER:

REEJA,
NRS VILLA, NELLIMOODU, MURUKUMPUZHA,
THIRUVANANTHAPURAM.

BY ADV. SRI.R.MANOJ

RESPONDENTS:

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1. THE SENIOR MANAGER,
KERALA STATE CO-OPERATIVE BANK LIMITED,
HEAD OFFICE BRANCH, PALAYAM,THIRUVANANTHAPURAM.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/07/2007 ALONG WITH CRMC.NO.2150 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.Nos.2148 & 2150 of 2007

Dated this the 4th day of July, 2007

O R D E R

Petitioners are accused in two separate prosecutions - both under Section 138 of the Negotiable Instruments Act, initiated by the same complainant. The petitioners are related to each other. Complaint has been filed. Cognizance has been taken by the learned Magistrate. The short grievance of the petitioners is that though the complaint is filed along with applications for condonation of delay, no notice was ordered on such applications for condonation of delay and those applications have not been disposed of. It is, in these circumstances, prayed that powers under Section 482 Cr.P.C may be invoked to quash the proceedings against the petitioners.

2. The petition shows that applications for condonation of delay, in these cases, have been filed by the complainant. The mere fact that the court omitted to order notice in those applications and pass orders thereon, is no reason to grant an order under Section 482 Cr.P.C quashing the proceedings. That will certainly be unfair and improper as against the complainant, who is not to be blamed for the omission of the court in not considering and passing orders on such applications for condonation of delay. I am, in these circumstances, satisfied that the prayers made in these Crl.M.Cs cannot be granted.

However, I make it clear that the learned Magistrate must consider whether there is a delay and if there is a delay, whether that delay deserves to be condoned as prayed by the complainant. The learned Magistrate must consider the same and pass appropriate orders after hearing both sides.

3. With the above observations, these Crl.M.Cs are, dismissed. The Registry shall communicate a copy of this common order to the learned Magistrate forthwith.

4. Issue a copy of this order to the learned counsel for the petitioners also for production before the learned Magistrate.

(R.BASANT, JUDGE)

rtr/-